

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

JUL 19 2011

JULIA C. BODVEY, CLERK  
BY:  DEPUTY CLERK

MARY JANE PENNINGTON,  
Substitute Party for Howard S.  
Pennington,  
Plaintiff,

Civil Action No. 7:10-CV-00276

v.

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

MICHAEL J. ASTRUE,  
COMMISSIONER OF  
SOCIAL SECURITY,

By: Judge James C. Turk  
Senior United States District Judge

Defendant.

**ORDER**

Plaintiff Mary Jane Pennington<sup>1</sup> brings this action pursuant to 42 U.S.C. §§ 416 and 423 for review of the Commissioner of Social Security's final decision denying her claims for disability insurance benefits under the Social Security Act. The Court referred the matter to United States Magistrate Judge B. Waugh Crigler for a Report and Recommendation, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge subsequently filed a report finding that the Administrative Law Judge ("ALJ") appropriately considered the claimant's physical impairments and residual functional capacity. As such, the Magistrate Judge concluded that the ALJ's decision was supported by substantial evidence. The Magistrate Judge, therefore, recommended that the Commissioner's decision be affirmed, that the Commissioner's Motion for Summary Judgment be granted, and Pennington's Motion for Summary Judgment be denied.

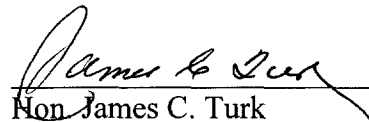
Following the issuance of the Report and Recommendation, the parties were entitled to note any objections within fourteen (14) days. Fed. R. Civ. P. 72(b) (2011).

<sup>1</sup> Plaintiff brings this action on behalf of the claimant, Howard S. Pennington, her deceased husband.

The Court received no such objections. As a result, and having reviewed the Magistrate Judge's Report and Recommendation and the record, the Court agrees with the Magistrate Judge's recommendation. Accordingly, it is hereby **ORDERED** and **ADJUDGED** that the Magistrate Judge's Report and Recommendation is **ADOPTED**, the Commissioner's decision is **AFFIRMED**, the Commissioner's Motion for Summary Judgment (Dkt. #29) is **GRANTED**, and Pennington's Motion for Summary Judgment (Dkt. #33) is **DENIED**.

The Clerk of Court is directed to strike the case from the Court's active docket. The Clerk is further directed to send copies of this Order to counsel of record for all parties.

ENTER: This Y<sup>th</sup> day of July, 2011.

A handwritten signature in cursive script, appearing to read "James C. Turk", is written over a horizontal line.

Hon. James C. Turk  
Senior United States District Judge